

Assembly Bill No. 1428

CHAPTER 75

An act to amend Section 11925 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 7, 1999. Filed with
Secretary of State July 7, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1428, Kaloogian. Taxation: documentary transfer tax.

Existing law authorizes counties and cities and counties to impose a documentary transfer tax at a specified rate upon deeds, instruments, or other writings by which specified property is transferred. Existing law exempts from the imposition of that tax, for any realty held by a partnership, the transfer of an interest in a partnership under specified conditions.

This bill would additionally make that exemption applicable to an entity treated as a partnership for federal income tax purposes.

This bill would also preclude the imposition of that tax by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.

The people of the State of California do enact as follows:

SECTION 1. Section 11925 of the Revenue and Taxation Code is amended to read:

11925. (a) In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no levy shall be imposed pursuant to this part by reason of any transfer of an interest in the partnership or other entity or otherwise, if both of the following occur:

(1) The partnership or other entity treated as a partnership is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986.

(2) The continuing partnership or other entity treated as a partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes, within the meaning of Section 708 of the Internal Revenue Code of 1986, for

purposes of this part, the partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by the partnership or other entity at the time of the termination.

(c) Not more than one tax shall be imposed pursuant to this part by a county, city and county or city by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by a partnership or other entity treated as a partnership at the time of the termination.

(d) No levy shall be imposed pursuant to this part by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.

